

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
SEPTEMBER 19, 2012  
7:00 P.M.**

**I. CALL TO ORDER**

Mayor Hovland called the meeting to order at 7:06 p.m.

**II. ROLL CALL**

Answering rollcall were Members Bennett, Brindle, Sprague, Swenson and Mayor Hovland.

**III. MEETING AGENDA APPROVED**

**Member Brindle made a motion, seconded by Member Sprague, approving the meeting agenda.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IV. CONSENT AGENDA ADOPTED**

**Member Brindle made a motion, seconded by Member Bennett approving the consent agenda as revised to remove Item IV.A., work session meeting minutes of September 4, 2012, as follows:**

**IV.A. Approve regular and ~~work session~~ meeting minutes of September 4, 2012.**

**IV.B. Receive payment of the following claims as shown in detail on the Check Register dated September 6, 2012, and consisting of 23 pages; General Fund \$142,243.83; Police Special Revenue \$1,050.00; Working Capital Fund \$35,181.06; Art Center Fund \$4,110.57; Golf Dome Fund \$279.46; Aquatic Center Fund \$2,949.23; Golf Course Fund \$15,372.94; Ice Arena Fund \$93.00; Edinborough Park Fund \$6,708.15; Centennial Lakes Park Fund \$2,179.03; Liquor Fund \$145,853.53; Utility Fund \$60,905.37; Storm Sewer Fund \$9,548.54; PSTF Agency Fund \$4,652.56; Payroll Fund \$3,457.89; TOTAL \$434,585.16 and for approval of payment of claims dated September 13, 2012, and consisting of 30 pages; General Fund \$115,609.34; CDBG Fund \$15,509.00; Working Capital Fund \$93,067.92; Equipment Replacement Fund \$35,462.29; Art Center Fund \$3,095.90; Golf Dome Fund \$3,000.00; Aquatic Center Fund \$11,655.40; Golf Course Fund \$21,796.86; Ice Arena Fund \$41,966.78; Edinborough Park Fund \$5,424.50; Centennial Lakes Park Fund \$150.00; Liquor Fund \$267,273.19; Utility Fund \$437,651.02; Storm Sewer Fund \$21,519.25; Recycling Fund \$39,973.03; PSTF Agency Fund \$14,586.44; TOTAL \$1,127,740.92.**

**IV.C. Adopt Resolution No. 2012-110 authorizing JPA for Minnesota Internet Crimes Against Children Task Force.**

**IV.D. Request for Purchase – Hansen Road Retaining Wall Maintenance, Improvement No. A-245, awarding the bid to the recommended low bidder, Sunram Construction Inc. at \$59,999.00.**

**IV.E. Request for Purchase – Geographic Information System Software Upgrade, awarding the bid to the recommended low bidder, Environmental Systems Research Institute, Inc. (ESRI) at \$36,337.50.**

**IV.F. Adopt Resolution No. 2012-112 authorizing grant applications – Hennepin Youth Sports Program and execution of final agreements with Hennepin County for the Garden Park Baseball Field Project.**

**IV.G. Approve 2013-2014 Labor Contracts for I.A.F.F. Local #1275; Paramedics/Firefighters.**

**IV.H. Request to Purchase – 42 Tasers, awarding the bid to the recommended low bidder, Uniforms Unlimited at \$61,126.95.**

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**ITEMS REMOVED FROM THE CONSENT AGENDA**

**IV.A. WORK SESSION MEETING MINUTES OF SEPTEMBER 4, 2012 – APPROVED AS CORRECTED**

Mayor Hovland made a motion, seconded by Member Swenson, to approve the work session meeting minutes of September 4, 2012, revising Page 1, Hillcrest Development Pentagon Park Plans, to indicate “...potential redevelopment...;” “...master developer and...;” change the word “need” to “needed,” and, capitalize the words Small Area Plan.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**V. SPECIAL RECOGNITIONS AND PRESENTATIONS**

- None.

**VI. PUBLIC HEARINGS HELD – Affidavits of Notice presented and ordered placed on file.**

**VI.A. APPEAL OF VARIANCE, 5000 SCHAEFER ROAD – DENIED – RESOLUTION NO. 2012-108 – ADOPTED**  
**Planning Director Presentation**

Assistant Planner Aaker presented the appeal of Deena Allen Fruchtman, 6405 Interlachen Boulevard, of a 38.6-foot front yard setback variance to Daniel Wagner and Lindsey Gerrity, 5000 Schaefer Road, to construct a garage stall and mud room onto the west side of the existing garage. The proposed garage and mudroom addition was to be located approximately 84 feet from Interlachen Boulevard, or 7.8 feet farther back from Interlachen than the existing garage. Ms. Aaker advised that on August 22, 2012, the Planning Commission recommended, on a 6-1 vote, to approve the variance based on limited opportunity for expansion on the property given the required setbacks. On September 4, 2012, Deena Allen Fruchtman submitted an appeal of the variance approval.

The Council asked questions of Ms. Aaker relating to the buildable area of the subject site, noting it was much smaller than usual for a lot of this size due to the setback requirements created by a corner location and the placement of neighboring homes. Ms. Aaker advised that the subject house, when constructed, conformed to setback requirements. The nonconformity occurred only upon construction of the house to the west. The Council acknowledged that in a previous similar consideration the construction of an addition was allowed because it had not exceeded the nonconformity of an existing screen porch. Ms. Aaker concurred this was a similar consideration, noting one-half of the subject house was nonconforming so the opportunity to design an addition was difficult.

**Appellant Presentation**

The appellant, Deena Allen Fruchtman, 6405 Interlachen Boulevard, was not in attendance.

**Proponent Presentation**

Daniel Wagner, 5000 Schaefer Road, stated he appreciated the City Council’s time in considering information and documentation that supported their position. Mr. Wagner indicated the height of the new garage was set back and intended to be smaller, tying into the existing garage structure.

Lindsey Gerrity, 5000 Schaefer Road, indicated other neighbors had submitted letters stating support of the variance.

Mayor Hovland opened the public hearing at 7:18 p.m.

**Public Testimony**

No one appeared to comment.

**Member Swenson made a motion, seconded by Member Brindle, to close the public hearing.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**Member Swenson made a motion, seconded by Member Sprague, to deny the appeal of variance for 5000 Schaefer Road.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**Member Swenson introduced and moved adoption of Resolution No. 2012-108, approving a Front Yard Setback Variance at 5000 Schaefer Road, based on the following findings:**

- 1. With the exception of the variance requested, the proposal would meet the required standards and ordinances for the R-1, Single Dwelling Unit District.**
- 2. The proposal would meet the required standards for a variance, because:**
  - a. The proposed use of the property is reasonable; as it is consistent with surrounding properties is deeper than the nonconforming setback that has historically been provided by the existing garage.**
- 3. The imposed setback limits design opportunity. The intent of the ordinance is to provide adequate spacing between structures and the street. Spacing will not change from Interlachen. The unique circumstance is the original placement of the home relative to the neighbor's home construction that occurred at a later date than the subject home.**

**And, subject to the following conditions:**

- 1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:**
  - Survey date stamped March 30, 2012 / revised July 27, 2012**
  - Building plans and elevations date stamped August 3, 2012**

Member Brindle seconded the motion.

The Council acknowledged this expansion was modest and a classic example of hardship not created by the property owners. In addition, the proposed addition would not be within sight lines of the living quarters of the adjacent house.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

***VI.B. VACATION REQUEST, PORTION OF NATCHEZ AVENUE, SAMUEL – RESOLUTION NO. 2012-115 – ADOPTED***

Engineer Presentation

Engineer Houle presented the revised request of Mathias and Jennifer Samuel, 4166 Monterey Avenue, to vacate 22 feet of the southern portion of the unimproved public right-of-way of Natchez Avenue from Monterey Avenue to approximately 216 feet to the west, referred to as Option A1 in the proponent's request and Option 1 in the mailed notice. Mr. Houle indicated the private utility companies and the City of St. Louis Park do not have public utilities in this right-of-way and the Edina Comprehensive Plan does not indicate future roadways, sidewalk, or trails within the proposed vacation area. Mr. Houle displayed an aerial view of the subject property and described the location of the proposed 22-foot vacation.

The Council discussed the area to be vacated and asked questions of Attorney Mattick who explained that once adopted, the vacation would be recorded and Hennepin County would determine ownership of the underlying property. With regard to increased property value for taxation purposes, Attorney Mattick advised the Assessor would make that determination, as lot width was usually associated with increased value.

Proponent Presentation

Mathias Samuel, 4166 Monterey Avenue, presented the request for easement vacation between their lot and the St. Louis Park Susan Lindgren Elementary School playground, noting it had been more narrowly

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tailored as previously recommended by the City Council. He described the topography of the subject site, location of neighboring structures, and intent to construct a house with a tuck-under garage accessed from the north. He clarified that he owned the property under discussion; however, the City had an easement over that property. Mr. Samuel then presented slides depicting several options for easement vacation that would accommodate the proposed house/garage structure including Option 3 (Option B in the proponent's application) that involved vacation of only a corner wedge of the property.

Gabe Keller, Peterssen Keller Architectural, presented the proposed house and opined the vacation would result in several benefits including a 10% reduction in the existing house/garage footprint, a reduction in the overall mass with a tuck-under garage as opposed to an attached garage, elimination of a front-facing garage, and opportunity to focus design/architecture/street presence with an open front-porch design. In addition, a 22-foot vacation (Option A1) would minimize the need for retaining walls.

Mayor Hovland opened the public hearing at 7:40 p.m.

### **Public Testimony**

Garfield Clark, representing the St. Louis Park School District, addressed the Council.

Lianne Beyerl, 4109 Monterey Avenue, addressed the Council.

**Member Brindle made a motion, seconded by Member Swenson, to close the public hearing.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

The Council reviewed the options provided and asked questions of Mr. Samuel and Mr. Keller relating to house placement and retaining wall height. With regard to tree removal, Mr. Samuel stated and Mr. Keller confirmed that the driveway would be tailored so only two trees would be removed. The Council acknowledged the need to assure a balance between acting conservatively in a stewardship role to hold easements for the public's interest and allowing rational redevelopment to accommodate modern needs. It was noted that Option 1 would add 22 feet to the property, enough to allow subdivision. Attorney Mattick advised that if the property had adequate width to subdivide, the City could not deny that request. It was also noted that Option 3, vacation of the wedge piece, would accommodate the proponent's desire for a driveway to access a tuck-under garage with the city still retaining the remainder of the right-of-way should there be a future need. **Member Sprague introduced and moved adoption of Resolution No. 2012-115, granting the vacation of public right-of-way of a portion of Natchez Avenue, conforming to Option 3.**

Member Swenson seconded the motion.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

## ***VII. COMMUNITY COMMENT***

Betsy Wolff, 6221 Creek Valley Road, voiced her objection that the Council would not accept verbal comment relating to the proposed voter ID amendment. Based on long-standing, published protocol, the Council invited Ms. Wolff to submit written comment which she did and which was then distributed to the Council.

## ***VIII. REPORTS / RECOMMENDATIONS***

### ***VIII.A. RESOLUTION NO. 2012-111 ADOPTED – ACCEPTING VARIOUS DONATIONS***

Mayor Hovland explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations.

**Member Bennett introduced and moved adoption of Resolution No. 2012-111 accepting various donations.** Member Sprague seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

***VIII.B. RESOLUTION 2012-113 – EXPRESSING OPPOSITION TO THE PROPOSED VOTER ID AMENDMENT - ADOPTED***

Jessica Kingston, Chair of the Human Rights and Relations Commission (HRRC), presented its recommendation to endorse a statement of opposition to the proposed voter ID Amendment to the Minnesota State Constitution.

The Council compared the language of the HRRC adopted resolution and the resolution that had been submitted by Member Bennett and reviewed by Chair Kingston, HRRC Member Stanton, HRRC Liaison & Human Resources Director Schaefer and City Clerk Mangen. Ms. Mangen advised of possible additional City costs that may be incurred and work tasks required to implement Voter Identification and provisional balloting if the amendment passes. The Council discussed the current documentation requirements and process used for Election Day voter registration and the impact to Edina's residents. The Council expressed concern that should the amendment be approved, it would end Election Day voter registration as it presently exists because it would require provisional voting subject to eligibility verification. It was noted that Ms. Wolff had submitted written comment relating to the validity of Brennan Center for Justice data; however, that language previously had been removed from the resolution to make the final resolution more Edina-specific. **Member Sprague introduced and moved adoption of Resolution No. 2012-113, expressing opposition to the proposed Voter ID amendment, as revised incorporating the first and third WHEREAS from the HRRC adopted resolution, with Council amendments.**

Member Bennett seconded the motion.

In response to questions regarding the timing for adoption of the resolution, Chair Kingston explained if the revised resolution was referred to the HRRC for action and re-presentation before the Council, it would not leave enough time for voter education prior to the November election. **Member Sprague made a motion to amend, seconded by Member Bennett, to delete the second-to-last and third-to-last WHEREAS made redundant by incorporation of the first and third WHEREAS from the HRRC resolution.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion to amend carried.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried as amended.

***VIII.C. RESOLUTION 2012-114 – EXPRESSING SUPPORT FOR A UNITED STATES CONSTITUTIONAL AMENDMENT TO REGULATE CORPORATE POLITICAL SPENDING AND CAMPAIGN FINANCING – TABLED INDEFINITELY***

Ms. Kingston presented the recommendation of the HRRC to endorse a statement of support for a US Constitutional amendment to regulate corporate political spending and campaign financing. The Council indicated it found there was not a direct nexus with this federal question or a direct implication to Edina's residents as with the voter ID amendment. **Member Swenson made a motion, seconded by Member Bennett, to table indefinitely consideration of a United States Constitutional amendment to regulate corporate political spending and campaign financing.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

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**IX. CORRESPONDENCE AND PETITIONS**

**IX.A. CORRESPONDENCE**

Mayor Hovland acknowledged the Council's receipt of various correspondence.

**IX.B. PETITIONS DO.TOWN REGARDING COMMUNITY GARDENS – RECEIVED**

Member Bennett made a motion, seconded by Member Brindle, to receive petitions from do.town regarding community gardens.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

**IX.C. ADVISORY BOARDS & COMMISSION CORRESPONDENCE:**

- 1. MINUTES – HERITAGE PRESERVATION BOARD, AUGUST 13, 2012**
- 2. MINUTES – PARK BOARD, AUGUST 13, 2012**
- 3. MINUTES – EDINA COMMUNITY HEALTH COMMITTEE, JULY 17, 2012**

Informational; no action required.

**X. MAYOR AND COUNCIL COMMENTS – Received**

**XI. MANAGER'S COMMENTS – Received**

**XII. ADJOURNMENT**

There being no further business on the Council Agenda, Mayor Hovland declared the meeting recessed to closed session at 9:37 p.m. Following the closed session the Mayor reconvened the meeting at 10:30 p.m. and continued taking Council Comments. The meeting was adjourned at 10:47 p.m.

Respectfully submitted,

Minutes approved by Edina City Council, October 2, 2012.

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Debra A. Mangen, City Clerk

Video Copy of the September 19, 2012, meeting available.

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James B. Hovland, Mayor